

Application No. 10/749,761
Response dated October 10, 2006
Reply to Office Action of July 11, 2006

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REMARKS

Claims 1-46 are pending in the application.

Claims 1-30 are withdrawn pursuant to the election/restriction being made final.

Therefore Claims 31-46 are presented for Examiner Chapman's consideration.

Claim 31 has been amended to require that "the back waist region and the crotch region are elastically stretchable in different directions." Support for this amendment can be found at least at page 18, lines 5-7 of Applicants' specification.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendment and the following responses is respectfully requested.

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Response to Rejections

By way of the Office Action mailed July 11, 2006, claims 31, 32, 35, 36, 38, 40, 41, and 43 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Number 6,913,559 to Mishima *et al.* (*Mishima*) in view of U.S. Patent Number 4,990,147 to Freeland (*Freeland*) and further in view of U.S. Patent 6,547,774 to Ono *et al.* (*Ono*). This rejection is respectfully traversed to the extent that it may apply to the currently presented claims.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all the claim limitations. M.P.E.P. § 2142, 2143.

Currently presented claim 31 requires, in part, that

the crotch piece is attached to the front piece and the back piece and wherein the front piece and the back piece are elastic in a lateral direction of the disposable absorbent garment and the crotch piece is elastic in a longitudinal direction of the disposable absorbent garment and wherein back waist region and the crotch region are elastically stretchable in different directions....

Mishima does not disclose a crotch "piece" attached to a front "piece" and a back "piece." To cure this defect, the Examiner combines *Freeland*. Even assuming, *arguendo*, that this combination is proper, the combination of *Mishima* and *Freeland* does not teach a front piece and a back piece that are elastic in the lateral direction, a crotch piece elastic in the longitudinal direction, and the back region and the crotch region stretchable in different directions as required by claim 31.

Mishima discloses a skin-facing sheet that is elastically stretchable in the transverse direction as well as the longitudinal direction at c. 3, ll. 37-40. Therefore, *Mishima* does not teach a back waist region and a crotch region that are stretchable in different directions. Likewise, *Freeland* teaches at c. 5, ll. 3 and c. 7, ll. 1-6 that the liner preferably has an inelastic area. Therefore, *Freeland* does not teach a back waist region and a crotch region that are stretchable in different directions. As such, the combination of *Mishima* and

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Freeland does not teach or suggest all the claim limitations. The addition of *Ono* does not cure this defect.

Claim 31 is patentably distinct over the combination of *Mishima*, *Freeland*, and *Ono* because the combination does not teach 1) a front piece and a back piece that are elastic in a lateral direction, 2) a crotch piece that is elastic in a longitudinal direction, and 3) the back waist region and the crotch region being elastically stretchable in different directions. For at least this reason this rejection should be withdrawn. Likewise, claims 32, 35, 36, 38, 40, 41, and 43 depend from claim 31 and are patentably distinct for at least the same reason. The rejection of these claims should also be withdrawn.

By way of the Office Action mailed July 11, 2006, claims 44 and 46 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Number 6,913,559 to *Mishima et al. (Mishima)* in view of U.S. Patent Number 4,990,147 to *Freeland (Freeland)* and further in view of U.S. Patent 6,547,774 to *Ono et al. (Ono)* and further in view of U.S. Patent 5,269,775 to *Freeland et al. (Freeland '775)*. This rejection is respectfully traversed to the extent that it may apply to the currently presented claims.

As discussed above, the combination of *Mishima*, *Freeland*, and *Ono* does not teach 1) a front piece and a back piece that are elastic in a lateral direction, 2) a crotch piece that is elastic in a longitudinal direction, and 3) the back waist region and the crotch region being elastically stretchable in different directions. The addition of *Freeland '775* does not cure this defect.

Freeland '775 teaches that the rear trisection 22R is longitudinally elastically extensible and the central trisection 22C is transversely elastically extensible. This is the opposite of what is claimed. Therefore, the combination of *Mishima*, *Freeland*, *Ono*, and *Freeland '775* fails to teach or suggest 1) a front piece and a back piece that are elastic in a lateral direction, 2) a crotch piece that is elastic in a longitudinal direction, and 3) the back waist region and the crotch region being elastically stretchable in different directions. Claims 44 and 46 depend from claim 31 and are patentably distinct for at least the same reason. The rejection of claims 44 and 46 should be withdrawn.

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By way of the Office Action mailed July 11, 2006, claims 33, 34, 42, and 45 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Number 6,913,559 to *Mishima et al. (Mishima)* in view of U.S. Patent Number 4,990,147 to *Freeland (Freeland)* and further in view of U.S. Patent 6,547,774 to *Ono et al. (Ono)* and further in view of U.S. Patent 6,129,720 to *Blenke et al. (Blenke)*. This rejection is respectfully traversed to the extent that it may apply to the currently presented claims.

As discussed above, the combination of *Mishima*, *Freeland*, and *Ono* does not teach 1) a front piece and a back piece that are elastic in a lateral direction, 2) a crotch piece that is elastic in a longitudinal direction, and 3) the back waist region and the crotch region being elastically stretchable in different directions. The addition of *Blenke* does not cure this defect.

Blenke discloses at c. 5, ll. 15-18 that the bodyside liner 24 may be resiliently extensible in at least the cross machine direction but does not teach 1) a front piece and a back piece that are elastic in a lateral direction, 2) a crotch piece that is elastic in a longitudinal direction, and 3) the back waist region and the crotch region being elastically stretchable in different directions as required by the claims. Therefore the combination of *Mishima*, *Freeland*, *Ono*, and *Blenke* fails to teach or suggest all the claim limitations and claim 31 is nonobvious for at least this reason.

Claims 33, 34, 42, and 45 depend from claim 31 and are patentably distinct for at least the same reason. The rejection of these claims should be withdrawn.

By way of the Office Action mailed July 11, 2006, claim 39 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Number 6,913,559 to *Mishima et al. (Mishima)* in view of U.S. Patent Number 4,990,147 to *Freeland (Freeland)* and further in view of U.S. Patent 6,547,774 to *Ono et al. (Ono)* and further in view of U.S. Patent 6,482,191 to *Roe et al. (Roe)*. This rejection is respectfully traversed to the extent that it may apply to the currently presented claims.

As discussed above, the combination of *Mishima*, *Freeland*, and *Ono* does not teach 1) a front piece and a back piece that are elastic in a lateral direction, 2) a crotch piece that is elastic in a longitudinal direction, and 3) the back waist region and the crotch region being elastically stretchable in different directions. The addition of *Roe* does not cure this defect.

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Roe discloses at c. 6, ll. 31-36 that the topsheet includes elasticated regions along at least portions of the longitudinal edges of the slit opening but does not teach 1) a front piece and a back piece that are elastic in a lateral direction, 2) a crotch piece that is elastic in a longitudinal direction, and 3) the back waist region and the crotch region being elastically stretchable in different directions as required by the claims. Therefore the combination of *Mishima*, *Freeland*, *Ono*, and *Roe* fails to teach or suggest all the claim limitations and claim 31 is nonobvious for at least this reason.

Claim 39 depends from claim 31 and is nonobvious for at least the same reason. Therefore, the rejection of this claim should be withdrawn.

By way of the Office Action mailed July 11, 2006, claim 37 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Number 6,913,559 to *Mishima et al. (Mishima)* in view of U.S. Patent Number 4,990,147 to *Freeland (Freeland)* and further in view of U.S. Patent 6,547,774 to *Ono et al. (Ono)* and further in view of U.S. Patent 5,037,416 to *Allen et al. (Allen)*. This rejection is respectfully traversed to the extent that it may apply to the currently presented claims.

As discussed above, the combination of *Mishima*, *Freeland*, and *Ono* does not teach 1) a front piece and a back piece that are elastic in a lateral direction, 2) a crotch piece that is elastic in a longitudinal direction, and 3) the back waist region and the crotch region being elastically stretchable in different directions. The addition of *Allen* does not cure this defect.

Allen discloses at c. 7, ll. 3-9 that the topsheet is elastically extensible in the longitudinal direction (parallel to axis A-A) and all or a portion may be elastically extensible in a lateral direction (orthogonal to axis A-A), but does not teach 1) a front piece and a back piece that are elastic in a lateral direction, 2) a crotch piece that is elastic in a longitudinal direction, and 3) the back waist region and the crotch region being elastically stretchable in different directions as required by the claims. Therefore the combination of *Mishima*, *Freeland*, *Ono*, and *Allen* fails to teach or suggest all the claim limitations and claim 31 is nonobvious for at least this reason.

Claim 37 depends from claim 31 and is nonobvious for at least the same reason. Therefore, the rejection of this claim should be withdrawn.

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For at least the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 920-721-3016.

Respectfully submitted,

Paul T. Van Gompel et al.

By:



David J. Arteman
Registration No. 44,512
Attorney for Applicant(s)